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Subject: Grid/DEC AOC
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All:

I wanted to raise an issue with you all that relates directly to the issue of which party will be responsible for performing the work for the RH-034 Tank excavation and the surrounding permanent support structure. In that regard, we reviewed Grid's 2007 Consent Order with DEC and the amendment to that Consent Order signed later that year. In the Consent Order, Grid obtained contribution protection. The language of the contribution protection section states as follows:

To the extent authorized under CERCLA section 113, 42 USC 9613, New York General Obligations Law section 15-108 and any other applicable law, Respondent has resolved its liability to the State for purposes of contribution protection provided by CERCLA section 113(f)(2), 42 USC 9613(f)(2) for " matters addressed" pursuant to and in accordance with this Order & Settlement Agreement. " Matters Addressed" in this Order & Settlement Agreement shall mean all response actions taken by Respondent to implement this Order & Settlement Agreement for the Sites and all response costs incurred and to be incurred by any person or party in connection with the work performed under this Order & Settlement Agreement, which costs have been paid by Respondent, including reimbursement of State Costs pursuant to this Order & Settlement Agreement.

The City needs to be assured that this provision will not bar any claim the City may have if the City performs any work on Parcels VI and VII. The City reads the clause " which costs have been paid by Respondent" to mean that Grid has contribution protection only for work it performs or for which it has already paid, but there should be no ambiguity on this point .

I suggest that we discuss this week options for obtaining that assurance. Could you forward to Virginia. I did not have her address .

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